

CHAPTER 26 ELDER GROUP HOMES

321—26.1(231B) Definitions. The terms in this chapter will have the meanings designated in Iowa Code chapters 231 and 231B and as follows:

“*Assessment*” means the administration of a standardized tool and the use of other procedures to identify existing impairments, situations, and problems which are barriers to a resident’s ability to function and to identify strengths and specific needs.

“*Assistance*” means that help which is provided to a tenant who is able to perform some portion of an activity, but who is unable to complete the activity entirely alone.

“*Care plan*” means the written description of a resident’s needs and capabilities, including by whom, when and how often care and services will be provided.

“*Committee*” means a resident advocate committee established under 321 IAC 9.

“*Condition*” means a provision attached to a new or existing certificate that limits or restricts the scope of the certificate or imposes additional requirements on the certificate.

“*Convenience services*” means those hotel-type services provided for the convenience of a tenant. Convenience services may include meals, transportation, laundry and housekeeping.

“*Exception*” means a variance from a regulation or provision of these rules granted by the department, upon written application by the homeowner.

“*Homelike*” means an environment that promotes the dignity, security and comfort of residents through the provision of personalized care and services to encourage independence, choice and decision making by the tenants.

“*Personal care provider*” means the individual who, in return for reimbursement, assists with the essential activities of daily living which the recipient can perform personally only with difficulty. Personal care may include bathing, personal hygiene, dressing, grooming, and supervision of self-administered medications, but does not include the administration of medications or the services of a registered nurse or licensed practical nurse.

“*Professional health care provider*” means an individual licensed as a medical doctor, a doctor of osteopathic medicine, a physician assistant, a registered nurse, or a licensed practical nurse.

“*Resident manager*” means the homeowner or an employee of a nonprofit corporation who lives in the home and is directly responsible for the care of tenants on a day-to-day basis. The resident manager may or may not be a personal care provider.

“*Self-administered medications*” means the act of a tenant placing a medication in or on the tenant’s own body without assistance.

“*Supervision of self-administered medications*” means the verbal reminder or guidance in the identification of the medication, the times and manner of administration. Supervision does not include the placing of the medication internally or externally on the tenant’s body.

“*Tenant*” means any person who is receiving room, board, personal care or convenience services for compensation in an elder group home (EGH) on a 24-hour basis.

321—26.2(231B) Application process.

26.2(1) Application materials may be obtained from the Iowa department of elder affairs.

26.2(2) An eligible applicant:

- a. Is any person or nonprofit corporation owning a single-family residence.
- b. Shall submit one copy of the completed application and the certification fee to the Iowa department of elder affairs.

321—26.3(231B) Certification process.

26.3(1) The department shall review the application for completion and compliance with all rules of this chapter and shall notify the homeowner of application status within five working days of receipt of the application.

26.3(2) Upon determination that an application is complete and in compliance, the department shall notify the state fire marshal.

26.3(3) The department or its designee(s) shall determine whether or not the proposed EGH meets applicable administrative rules contained in 321—Chapter 26 and, if new construction, all applicable local housing or state building codes.

26.3(4) The department shall notify the homeowner in writing of certification approval or denial within five working days of receipt of documentation of inspections completion.

26.3(5) The department shall notify within five working days the appropriate city council or county board of supervisors and AAA that an EGH has been certified and placed on the registry maintained by the department.

26.3(6) Renewal of certification. A certificate for an elder group home, unless suspended or revoked, shall expire at the end of the time period specified in the certificate and shall be renewed upon application by the owner or operator in accordance with this subrule. In order to obtain a renewal of the elder group home certification, the applicant must submit:

- a. The completed application form at least 30 days prior to the expiration of such certificate;
- b. The required certification fee for an elder group home with the application for renewal;
- c. Documentation by a qualified professional that the following systems have been inspected and are found to be maintained in conformance with the manufacturer's recommendations and nationally recognized standards: heating, cooling, water heater, electricity, plumbing, sewage, artificial light, and ventilation; and, if applicable, garbage disposal equipment, cooking appliances, laundry equipment and elevators;
- d. If the elder group home is contracting personal care from a certified home health agency or a licensed health care facility, a copy of that entity's current license or monitoring report;
- e. Documentation that all employees have received the two-hour training on dependent adult abuse for mandatory reporters;
- f. Appropriate changes in the documentation submitted for certification to reflect any changes in the elder group home; and
- g. An assurance that all other elements of the elder group home's operation remain the same as previously submitted.

321—26.4(231B) Tenant admission requirements.

26.4(1) Resident managers may only admit or continue to care for tenants whose service needs do not require a level of care that exceeds the provision of personal care as defined in Iowa Code section 231B.1.

26.4(2) The resident manager shall notify the care review committee within one week of acceptance of the first tenant.

26.4(3) A tenant will be accepted for residence only if a bedroom is available to the tenant from which the unaided tenant is able to travel a normal path to safety.

321—26.5(231B) Care plan required.

26.5(1) A care plan will be developed at admission for each tenant by a case management project for frail elderly (CMPFE) multidisciplinary team or, where CMPFE is not available, by a professional health care provider selected by the tenant, and in cooperation with the tenant.

26.5(2) The care plan will be used on an assessment of tenant functional abilities.

26.5(3) The care plan shall indicate, at a minimum, the client's needs and requests for assistance, services and care to be provided, and the provider(s).

26.5(4) The tenant's care plan shall be reviewed for appropriateness at least within 30 days prior to recertification of the EGH and on client or resident manager request.

321—26.6(231B) Exceptions.

26.6(1) *Level of care waivers.* Requests for waiver of the level of care limitations for occupants of an elder group home shall comply with the requirements of 321—subrule 1.2(3) in addition to the following standards. The department shall:

- a. Accept from an elder group home a written request for waiver of an individual tenant's service limit, for a specified period of time of no more than 21 days, as soon as it becomes apparent to the elder group home's staff that the tenant is going to need licensed nursing activities or hospice care;
- b. Respond in writing to such requests within two working days of receipt of necessary documentation;
- c. Monitor regularly for the duration of the waiver the tenant's medical and functional information for continued appropriateness of the exception;
- d. Keep waivers to a minimum.

26.6(2) *Criteria for level of care exception.* The department may grant an exception if the resident manager proves by clear and convincing evidence the following criteria are met:

- a. It is the informed choice of the tenant to remain in the home; and
- b. The resident manager is able to provide appropriate care to the tenant in addition to the care of the other tenants; or additional staff is available and obtained to meet the tenant's care needs; and
- c. The exception will not jeopardize the care, health, safety or welfare of the tenants.

321—26.7(231B) Resident advocate committees. Resident advocate committees for EGHs shall be governed by 321—Chapter 9 unless otherwise required in this chapter.

26.7(1) *Committee placement.* A resident advocate committee shall be established by the department within each city or county with an EGH(s) certified in accordance with this chapter.

26.7(2) *Committee ratio.* The department shall establish resident advocate committees at the ratio of one committee for no more than five EGHs.

26.7(3) *Committee visitations.* The committee shall visit each EGH assigned to it at a minimum of once a year and within one month following the admission of the first tenant to the EGH.

321—26.8(231B) Qualifications for EGH personnel.

26.8(1) *Proof of training.* The homeowner shall maintain for review, proof of training of EGH staff required by these rules.

26.8(2) *Personal care providers.* Persons providing personal care shall have completed at a minimum a home health aide training program that meets the requirements and criteria established in 641—Chapter 80.

26.8(3) *Resident manager.*

- a. The resident manager shall:
 - (1) Be 18 years of age or older, of sound mind, essentially capable of physical self-care, and shall reside in the EGH as a primary residence;
 - (2) Sign a statement affirming that the resident manager has not been convicted of a felony, a serious or aggravated misdemeanor in the preceding five years, any criminal conviction involving controlled substances, or found to be in violation of the child or dependent adult abuse laws in any state; and
 - (3) Sign a statement disclosing whether the resident manager has or has had an ownership interest in an elder group home, assisted living program, home health agency, residential care facility or licensed nursing facility in any state which has been closed due to removal of program, agency, or facility licensure or certification or involuntary termination from participation in either the Medicaid or Medicare program; or has been found to have failed to provide adequate protection or services for tenants to prevent abuse or neglect.

b. The elder group home shall conduct a criminal background check and dependent adult abuse record check on each employee hired after July 1, 1998, in accordance with Iowa Code section 135C.33.

c. Any person refusing to sign the statements required in 26.8(3) "a"(2) and (3) or subsequently found to have provided false information on said statements shall not serve as a resident manager.

321—26.9(231B) Facility standards.

26.9(1) The EGH shall be safe, sanitary, well-ventilated, properly lighted and heated and, if constructed or substantially remodeled after January 1, 1994, shall comply with all applicable local housing ordinances for family residences and with 661—5.625(100,231B).

26.9(2) If the structure existed on or prior to January 1, 1994, the EGH shall meet the fire safety rule promulgated by the state fire marshal division for this special classification and the following standards:

a. General.

- (1) The home and furnishings shall be clean and in good repair;
- (2) Stairways shall have handrails of a circumference, length, texture, strength and stability that can reasonably be expected to provide tenant support;
- (3) A functioning light shall be provided in each room, stairway, and exit; incandescent light bulbs shall be protected with appropriate covers;
- (4) The yard, fire exits and exterior steps shall be accessible and appropriate to the condition of the tenants;
- (5) There shall be at least 150 square feet of common living space and sufficient furniture in the home to accommodate the recreational and socialization needs of all the tenants at one time; common space shall not be located in the basement or garage, unless such space was constructed for that purpose. Additional common living space may be required if wheelchairs are to be accommodated;
- (6) Interior and exterior doorways used by residents must be wide enough to accommodate wheelchairs and walkers if persons with impaired mobility are in residence;
- (7) Hot and cold water at each tub, shower, and sink shall be in sufficient supply to meet the needs of the residents;
- (8) Grab bars will be present for each toilet, tub and shower; access to toilet and bathing facilities shall be barrier-free; toilet and bathing facilities shall provide individual privacy;
- (9) A telephone will be available and accessible for tenants' use in a reasonable accommodation for privacy for incoming and outgoing calls.

b. Sanitation.

- (1) A public water supply shall be utilized if available; if a nonmunicipal water source is used, the homeowner must show documentation from the state laboratory that the water supply is potable;
- (2) Septic tanks or other nonmunicipal sewage disposal systems shall be in good working order;
- (3) Garbage and refuse shall be suitably stored;
- (4) If laundry service is provided, soiled linens and clothing shall be stored in containers in an area separate from food storage, kitchen and dining areas;
- (5) Sanitation for household pets and other domestic animals shall be adequate to prevent health and safety hazards;
- (6) There will be adequate control of insects and rodents;
- (7) Reasonable and prudent precautions for infection control will be used in personal care;
- (8) There shall be at least one toilet and one sink for each four occupants, and at least one tub or shower for each six household occupants (including tenants, resident manager, and resident manager's family) with a minimum of one sink and toilet on each floor occupied by tenants; a sink shall be located near each toilet.

c. Bedrooms shall:

- (1) Have a door that opens directly to a hallway or common use area without passage through another bedroom or common bathroom;
- (2) Be adequately ventilated, heated and lighted;
- (3) Have at least 70 square feet of usable floor space, excluding any area where a sloped ceiling does not allow a person to stand upright;
- (4) Provide individual privacy and be occupied by one tenant, unless freely agreed to by the tenants in the lease;
- (5) Resident managers, their family members and convenience service providers and personal care providers shall not use as bedrooms areas that are designated as living areas or as tenant bedrooms;
- (6) Be on ground level for tenants with impaired mobility;
- (7) Be in close enough proximity to resident manager to alert resident manager to nighttime needs or emergencies, or shall be equipped with a call system.

d. Safety.

- (1) All combustion appliances shall be used and maintained properly and be inspected annually by a qualified technician for carbon monoxide emissions;
- (2) Extension cord wiring shall not be used in place of permanent wiring.

321—26.10(231B) Fees. Fees to cover program administration shall be established by the department. All fees shall be paid at the time of the request and are nonrefundable. Checks should be made out to the Iowa Department of Elder Affairs.

321—26.11(231B) Certification required. Any entity that meets the definition of an EGH as defined in Iowa Code section 231B.1(4) must be certified by the department, excepting those facilities that are certified or licensed under Iowa Code chapter 135C.

321—26.12(231B) Complaint procedure. Any person with concerns regarding the operations and service delivery of an elder group home may file a complaint with the home- and community-based services division of the department of elder affairs at the address provided in 321—subrule 2.1(2).

26.12(1) The complaint shall include the complainant's name, address, and telephone number and the complainant's relationship to the elder group home. The department may elect to act on anonymous complaints if the department, upon preliminary review, determines that the complaint has reasonable basis and is not intended to harass the elder group home.

26.12(2) The complaint shall identify the elder group home and shall include the complainant's concerns regarding the home.

26.12(3) Upon receipt of a complaint made in accordance with this rule, the department shall make a preliminary review of the complaint. If the department, upon preliminary review, determines that the complaint is intended to harass the elder group home or is without reasonable basis, the department may dismiss the complaint.

26.12(4) Within 20 working days of receipt of a reasonable complaint regarding quality of care, the department shall make or cause to be made an on-site review of the elder group home. If the complaint involves a situation that can reasonably be expected to result in imminent harm, the department shall make or cause to be made an on-site review of the elder group home within 24 hours.

26.12(5) The department shall apply a preponderance of the evidence standard in determining whether or not a complaint is substantiated. Upon conclusion of the investigation, the department shall notify the complainant and elder group home promptly of the results. Notice of results shall include a summary of the complaint(s), the finding(s), and the plan for resolution.

26.12(6) The department's decision to dismiss a complaint or its determination that a complaint is not substantiated is a final agency action not subject to contested case proceedings, appeal, or judicial review provisions of Iowa Code chapter 17A.

26.12(7) When the nature of a complaint falls outside the department's authority, the department shall forward or refer complainants to the appropriate investigatory entity.

321—26.13(231B) Denial, suspension, or revocation. The department shall have the authority to deny, suspend or revoke a certificate in any case where the department finds there has been a substantial or repeated failure on the part of the elder group home to comply with the requirements of 321—Chapter 26 or for any of the following reasons:

26.13(1) Cruelty or indifference to elder group home tenants.

26.13(2) Appropriation or conversion of the property of an elder group home tenant without the tenant's written consent or the written consent of the tenant's legal guardian.

26.13(3) Permitting, aiding, or abetting the commission of any illegal act in the program.

26.13(4) Obtaining or attempting to obtain or retain a certificate by fraudulent means, misrepresentation, or by submitting false information.

26.13(5) Habitual intoxication or addiction to the use of drugs by the applicant, manager or supervisor of the elder group home.

26.13(6) Securing the devise or bequest of the property of a tenant of an elder group home by undue influence.

26.13(7) Any individual has or has had an ownership interest in an elder group home, assisted living program, home health agency, residential care facility or licensed nursing facility in any state which has been closed due to removal of program, agency, or facility licensure or certification or involuntary termination from participation in either the Medicaid or Medicare program; or has been found to have failed to provide adequate protection or services for tenants to prevent abuse or neglect.

26.13(8) In the case of a certificate applicant or an existing certified owner or operator which is an entity other than an individual, the department may deny, suspend, or revoke a certificate if any individual who is in a position of control or is an officer of the entity engages in any act or omission proscribed by this chapter.

321—26.14(231B) Notice—hearings.

26.14(1) The denial, suspension, or revocation of a certificate shall be effected by delivery to the applicant or certificate holder by certified mail, return receipt requested, or by personal service of a notice setting forth the particular reasons for such action. Such denial, suspension, or revocation shall become effective 30 days after the mailing or service of the notice, unless the applicant or certificate holder, within such 30-day period, gives written notice to the department requesting a hearing, in which case the notice shall be deemed to be suspended.

26.14(2) If the applicant or certificate holder requests a hearing, the department shall transmit the request to the department of inspections and appeals pursuant to 481—10.4(10A).

26.14(3) The hearing shall be conducted by the department of inspections and appeals pursuant to 481—10.1(10A) to 481—10.24(10A,17A).

26.14(4) At any time at or prior to the hearing, the department may rescind the notice of the denial, suspension, or revocation upon receipt of satisfactory evidence that the reasons for the denial, suspension, or revocation have been or will be removed.

321—26.15(231B) Appeals. All appeals shall be conducted pursuant to 321—subrule 2.7(4).

321—26.16(231B) Judicial review. Procedures for judicial review shall be conducted pursuant to 321—subrule 2.7(6).

321—26.17(231B) Records. The department collects and stores a variety of records in the course of certifying and monitoring elder group homes. Some information stored may be personally identifiable. None is retrievable by personal identifier unless a business uses an individual's name in the title. Each elder group home record maintained by the department contains both open and confidential information.

26.17(1) Open information includes the following:

- a.* Certificate application and status;
- b.* Final findings of state and Medicaid surveys;
- c.* Records of complaints;
- d.* Reports from the fire marshal;
- e.* Plans of correction submitted by the program;
- f.* Official notices of certificate sanctions; and
- g.* Findings of fact, conclusions of law, decisions and orders issued pursuant to rules 26.13(231B), 26.14(231B) and 26.15(231B).

26.17(2) Confidential information includes:

- a.* Monitoring or investigation information which does not comprise a final finding. Monitoring information which does not comprise a final finding may be made public in a proceeding concerning the citation of a program or denial, suspension or revocation of a certificate;
- b.* Names of all complainants;
- c.* Names of tenants of all elder group homes, identifying medical information and the address of anyone other than an owner.

These rules are intended to implement Iowa Code chapter 231B.

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